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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,464

08/08/2006

Ronald A. Bulard

100861-6 (KGB)

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27384 7590 09/18/2007  
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EXAMINER

BUMGARNER, MELBA N

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

09/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/536,464

Applicant(s)

BULARD ET AL.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/25/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56. (Statement should read "... material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56.")

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on May 25, 2005 in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, a line has been drawn through document M, because it does not include reference number of the search report and date. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Priority of Subject Matter***

3. The applicant is advised that the claims contain subject matter not disclosed in the original disclosure; therefore, are not afforded the priority date of the original disclosure, but that

of subsequent continuing applications as follows: claims 1-6 and 8-14 are given the priority date of December 26, 2003, and claims 7, 15, and 16 are given the priority date of April 5, 2004.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kyung et al. (2002/0127510). Kyung et al. disclose one-piece dental implant comprising a threaded shaft 30 tapering to a point 32, and a head having a shape capable of accepting and retaining a keeper cap or dental wire or o-ball, the shape comprising convex and/or concave elements and being other than ball shaped. The implant has a non-circular abutment 28 positioned between the shaft and the head. The implant has an outwardly tapering smooth collar 36 between the shaft and head. The head as an irregular surface (figure 2). Kyung et al. show a method of inserting the dental implant into the jawbone of providing the implant and inserting through gum tissue into the jawbone 34 by gripping the non-circular abutment [0033].

6. Claims 1-4, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Silverman (3,514,858). Silverman discloses a one-piece dental implant comprising a threaded shaft 36 tapering to a point, and a head 40 having a shape capable of accepting and retaining a keeper cap or dental wire or o-ball, the shape comprising convex and concave elements and being other than ball shaped. The implant has an outwardly tapering smooth collar between the shaft and head. The head as an irregular surface. Silverman shows the dental implant and a

retrofit head 32 adapted to fit over the head, the retrofit head having a head having a shape capable of accepting and retaining a keeper cap or dental wire (figure 1), and method of inserting the combination.

7. Claims 1-13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Weissman (2002/0142265). Weissman discloses one-piece dental implant comprising a threaded shaft 20 tapering to a point, and a head having a shape capable of accepting and retaining a keeper cap or dental wire or o-ball, the shape comprising convex and/or concave elements and being other than ball shaped (figure 2). The implant has a non-circular abutment 24 positioned between the shaft and the head. The implant has an outwardly tapering smooth collar 22B between the shaft and head. The head as an irregular surface. Weissman shows a method of inserting the dental implant into the jawbone of providing the implant and inserting through gum tissue into the jawbone by gripping the non-circular abutment with a tool [0097]. Weissman shows a method of securing a removable or fixed prosthesis to the jawbone further including providing the prosthesis and securing the prosthesis (figures 20, 21). Weissman shows the dental implant and a retrofit head adapted to fit over the head (figures 67,73,75), the retrofit head having a head having a shape capable of accepting and retaining a keeper cap or dental wire or o-ball, and method of inserting the combination.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 2-4 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. It is unclear whether an additional head or the head at said second end is claimed, if the head of claim 1, dependent claims 2-4 are not further limiting.

***Conclusion***

10. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner  
Primary Examiner